

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, *et al.*,

Plaintiffs,

 γ

LANDS OF DISTINCTION, LLC, an Illinois limited liability company,

Defendant.

CIVIL ACTION

NO. 07 C 6887

JUDGE MILTON I. SHADUR

AFFIDAVIT

STATE OF ILLINOIS

COUNTY OF COOK

)

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SS.

DAVID S. BODLEY, being first duly sworn upon his oath, deposes and states:

1. He is now, and has since the first day of May, 1999, been employed by the Trustees of the Midwest Operating Engineers Fringe Benefit Funds as administrative manager, and in such capacity, has personal knowledge of the matters hereinafter set forth and if called as a witness in the instant proceedings is competent to testify in respect thereto.

2. He has read the Complaint filed in this cause, and knows of his own personal knowledge the contents of the collective bargaining agreements and Agreements and Declarations of Trust and all facts alleged therein, and if called and sworn as a witness is competent to testify thereto.

3. He is charged with keeping and maintaining records of contributions received by the Plaintiff Funds, maintains individual records on each person, firm and corporation required to make contributions to said Plaintiff Funds, receives and records contribution reports made by such persons, firms or corporations, and has under his supervision and direction all books, records, documents and papers relating to such Plaintiff Funds.

4. That he has examined the account of Defendant, LANDS OF DISTINCTION, LLC, an Illinois limited liability company, in the above-entitled action, and states that said, Defendant:

- a. Is required to submit monthly contribution reports accompanied by payment of fringe benefit contributions, under the terms of a written agreement specifying and describing such obligation;
- b. Has failed to submit to Plaintiffs the monthly contribution reports and contributions required of it, or all of them, despite repeated notification from his office to said Defendant of such delinquency.

5. Because of the Defendant's failure to submit the required monthly contribution reports, Affiant is unable to determine the amounts, if any, that may be due and owing to Plaintiffs.

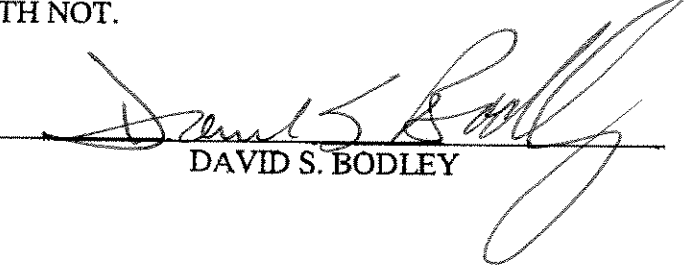
6. That in his capacity as Administrative Manager, he has become familiar with the administration of multi-employer fringe benefit funds, and that the custom and usage in maintaining such funds is to require an audit of the payroll books and records of employers required to file contribution reports, in order to determine contributions due such funds.

7. That absent the performance of an audit as requested, Plaintiffs have no alternative means by which they can determine with the degree of accuracy required of them by law, the actual contributions which Defendant is required to have made to Plaintiffs and which it has failed to make.

8. He is duly authorized by Plaintiffs in this behalf, has personal knowledge of the matters set forth above and if called as a witness in this cause, is competent to testify thereto.

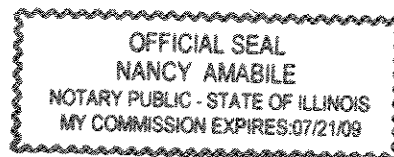
9. He makes this Affidavit in support of the application of Plaintiffs for entry of default and for an order directing an audit and requests this Court to consider the same as proof in support of the allegations contained in the Complaint of the Plaintiffs and such other facts herein set forth.

FURTHER AFFIANT SAYETH NOT.


DAVID S. BODLEY

SUBSCRIBED AND SWORN
TO before me this 29th
day of January, 2008.


NOTARY PUBLIC



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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Affidavit of David S. Bodley) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 6th day of February 2008:

Mr. Ronald J. Carr, Registered Agent
Lands of Distinction, LLC
307 Ramona Avenue
Elgin, IL 60120

Mr. Ronald J. Carr, Registered Agent
Lands of Distinction, LLC
850 Hampton Court
West Chicago, IL 60185

/s/ Cecilia M. Scanlon

Cecilia M. Scanlon
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